

MAIL STOP
OFFICE OF PETITIONS
Attorney Docket No. 25582A

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent of:

BABAYOFF, et al.

Conf. No.: 2062

Patent No.: 6,940,611

Examiner: PUNNOOSE

Issue Date: September 6, 2005

Art Unit: 2877

Title: **IMAGING A THREE-DIMENSIONAL STRUCTURE BY CONFOCAL
FOCUSSING AN ARRAY OF LIGHT BEAMS**

RENEWED PETITION UNDER 37 C.F.R. § 1.28

Commissioner for Patents
Attn: Joan Olszewski
Petitions Examiner
Office of Petitions
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Ms. Olszewski:

This is a renewed petition under 37 C.F.R. § 1.28, in order to reconsider the decision mailed on January 21, 2011, regarding the fee deficiency submission under 37 C.F.R. § 1.28. The fee deficiency submission was DISMISSED in the decision due to the petition not being signed by a person having authority to act in the above-identified patent.

BACKGROUND

On October 27, 2003, the applicants filed a divisional application in the United States with the basic filing fees, which included the Search Fee and the Examination Fee, as a Small Entity.

As of December 16, 2008, the above-identified patent no longer qualified for a

Adjustment date: 02/24/2011 LDIEP1
01 FC:1599 -432.00 0P

02/24/2011 LDIEP1 03225524 69425.11
01 FC:1599 490.00 0P

Small Entity status. The error involved with any payments made as a Small Entity after this date occurred in good faith and with no deceptive intention by the Applicants.

The first Maintenance Fee payment for the above-identified patent was filed with the U.S. Patent and Trademark Office on March 6, 2009, as a Small Entity.

The applicants filed a fee deficiency submission payment of \$490.00 by check (no. 9950), along with a Loss of Entitlement to Small Entity Status statement, and an itemization of the deficiency payment owed on December 8, 2010.

The petition was dismissed as the fee deficiency submission was not signed by a person having authority to act in the above-identified patent.

STATEMENT OF FACTS

The Declaration as filed on October 27, 2003, was a copy of the executed Declaration filed in the parent case. The original Declaration was prepared and filed prior to the arrival of Ms. Susanne M. Hopkins, Partner, to the Nath Law Group (previously known as Ms. Susanne M. Hopkins-Klima and Nath & Associates PLLC).

Ms. Hopkins signed the fee deficiency paperwork without deceptive intention.

Ms. Hopkins works under the managing partner, Mr. Gary M. Nath. Mr. Nath is currently listed on the Declaration and therefor has the authority to sign the fee deficiency submission.

The fee deficiency submission is now being resubmitted with Mr. Nath's signature. Payment of the fee deficiency was previously submitted to the U.S. Patent and Trademark Office on December 8, 2010.

SUMMARY

The Examiner is asked to review these newly submitted documents. The applicants believe that with the submission of these documents, the requirements for having a person with authority acting on behalf of the above-identified patent is provided.

Thus, the applicants respectfully request reconsideration of the fee deficiency payment. This renewed petition under 37 C.F.R. § 1.28 is being filed on February 15, 2011.

It is believed that no fees are due and that this submission is timely filed. However, if fees are due, the Commissioner is hereby authorized to charge any deficiency or credit any excess to Deposit Account Number 14-0112.

Please direct any questions to the below-signing attorneys.

Respectfully submitted,

THE NATH LAW GROUP

/Gary M. Nath/

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Date: February 15, 2011

THE NATH LAW GROUP

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